

**Hearing of the
House Resources Committee,
Subcommittee on Fisheries Conservation, Wildlife and Oceans
on H.R. 4781
The Marine Mammal Protection Act Amendments of 2002
June 13, 2002**

Members Attending

Wayne Gilchrest (R-MD, chair), Robert Underwood (D-GU, ranking member), Richard Pombo (R-CA), Neil Abercrombie (D-HI), James Hansen (R-UT)

Witness List

Panel 1

Mr. Raymond F. DuBois, Jr.- Deputy Undersecretary of Defense, Installations and Environment
VADM Charles Moore- Deputy Chief of Naval Operations for Readiness and Logistics
Dr. William T. Hogarth- Assistant Administrator for Fisheries, NMFS
Mr. Marshall Jones- Deputy Director, U.S. Fish and Wildlife Service
Dr. John E. Reynolds III- Chairman, Marine Mammal Commission

Panel 2

Mr. Robert C. Fletcher- President, Sportfishing Association of California
Mr. Andrew E. Wetzler- Senior Project Attorney, Natural Resources Defense Council
Ms. Nina M. Young- Director, Marine Wildlife Conservation, The Ocean Conservancy
Mr. Richard Luedtke- Commercial Gillnet Fisherman, Mannahawkin, New Jersey
Dr. Peter F. Worcester- Research Oceanographer, Scripps Institution of Oceanography University of California San Diego

Opening Statements

Chairman Gilchrest opened by explaining the purpose for this hearing. The subcommittee was interested in hearing testimony on two issues: 1) provisions included in HR 4781 (the Gilchrest MMPA bill), and 2) whether there were any additional issues not included in HR 4781 that needed to be addressed. Full Resources Committee Chair Hansen voiced concerns over the ability of the military to train under the current definition of "harassment," and stated the definition needs to be based on sound science and not on fear. Mr. Hansen pointed out that the definition contained in the Bush Administration's Defense Authorization bill was essentially the same as the definition proposed by the Clinton Administration in its MMPA Reauthorization bill.

Questions

Chairman Gilchrest asks Dr. Reynolds: Are large ships a problem for marine mammals? Are there any reporting mechanisms?

Dr. Reynolds: Marine mammals are affected by more than just commercial fisheries. Both large cargo vessels and recreational watercraft have collided with marine mammals in the past. The Committee must recognize that takes of marine mammals are significant in the non-commercial sector.

Chairman Gilchrest asks Dr. Hogarth: As far as non-commercial fishermen are concerned, does NMFS lack the tools to enforce the MMPA?

Hogarth: There are many fisheries where commercial and recreational fishermen use the exact same gear, and can even fish that gear side-by-side. However, under the current MMPA legislation, NMFS does not have the authority to address marine mammal takes by recreational fisheries.

Chairman Gilchrest asks Mr. DuBois: What does the Navy do to avoid marine mammals during training exercises?

DuBois: The Navy has deferred and cancelled training due to migratory patterns of marine mammals.

VADM Moore: The Navy has invested a great deal of money into marine mammal research

What is the purpose of this research?

VADM Moore: The research includes a marine mammal density study that provides information to the fleets in order to try to avoid collision. Fleets also track marine mammals and report the information to the Coast Guard, who then shares the information with the shipping industry.

Chair Gilchrest to Dr. Hogarth, Mr. Jones and Dr. Reynolds: Have you seen the DoD new definition for “harassment?” Do you feel it should be specific to the Navy or applied to a broader audience?

Dr. Hogarth: NMFS supports the need for a change in the definition. We support the definition in the Administration’s Defense Authorization bill. We do believe that the definition should be extended to other activities.

Mr. Jones: The current definition is not working. I support the DoD definition. It must focus on the harm done to marine mammals.

Dr. Reynolds: I am supportive of the DoD definition and feel that it should not be specific to the Navy.

Del. Underwood asked Dr. Hogarth: If there were a way to tighten the permit process, would the current definition still need to be changed?

Dr. Hogarth: The current definition is very broad. It would be easier to conduct permitting if the definition was tighter.

Mr. DuBois: The definition needs to be focused on biological effects, not on potential problems. It needs to be more focused.

Rep. Abercrombie stated his opinion that the definition of “harassment” contained in the Administration’s Defense Authorization bill will only make the current definition more complex. He says that adding the word “significant” will make the definition more subjective and thus

more ambiguous. He feels that the Navy is adding this term in so that they can carry on their exercises without having to worry about the effects if they are caught “harassing” a marine mammal because they can define “significant” however it will fit their needs.

Closing remarks

Chair Gilchrest closed by saying that we are intelligent enough to both conduct military training and understand the physics of the system upon which marine mammals depend. We must work to do all we can to take the next positive step in conservation. Rep. Abercrombie mentioned that he supports Navy research and development, but thinks that the proposal to redefine “harassment” does not clarify anything.